

SUMMARY OF INCIDENT

On November 27, 2016, at approximately 10:00 a.m., Officer A responded to the scene of a traffic accident near the location of XXXX N. Lower Lake Shore Drive (Lower Lake Shore Drive and Illinois Street) involving multiple vehicles and victims. Several members of the Chicago Fire Department were also present at the scene, including the complainant, Battalion Chief A.

Shortly after arriving to the scene, Officer A approached at least two other members of the Chicago Fire Department before reaching Battalion Chief A to request the relocation of one of their Engines. His requests were denied. Sometime during his conversation with Battalion Chief A, a verbal dispute ensued, which turned physical. During the encounter, Officer A used his hands to push the upper body of Battalion Chief A. Ultimately, both Officer A and Battalion Chief A contacted their respective departments for supervisory assistance. Shortly thereafter, ranking members from both departments arrived. Officer A and Battalion Chief had no further incidents.

An initiation report prepared by Sergeant A, #XXXX, identified Chicago Fire Department Firefighter/Paramedic (FF/PM), A and independent witness, Civilian 1 as witnesses.

ALLEGATIONS

On 27 November 2016, Sergeant A, #XXXX, Unit XXX, registered a complaint with the Independent Police Review Authority (IPRA)¹ on behalf of complainant, Battalion Chief A.

It is alleged that on November 27, 2016, at approximately 10:00 a.m., near the location of XXXX N. Lower Lake Shore Drive: **Officer A, #XXXX:**

1. Made inappropriate contact with Battalion Chief A by using his hands to push the upper body of Chief A.
2. Directed profanities toward Battalion Chief A.
3. Failed to identify himself to Chicago Fire Department Paramedic, A upon request.

APPLICABLE RULES AND LAWS

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policies and goals or brings discredit upon the Department.

Rule 8: Disrespect or maltreatment of a person while on duty.

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced IPRA as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendations set forth herein are the recommendations of COPA.

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Order: 03-02- Use of force Guidelines

INVESTIGATION

An **Initiation Report** submitted to IPRA by **Sergeant A, #XXXX** on behalf of complainant, Chicago Fire Department (CFD) Battalion Chief A (“Battalion Chief A” or “the BC”), documents a verbal and physical dispute occurred between the BC and Chicago Police Officer A, Star #XXXX while on scene at a traffic accident. In short, Battalion Chief A told Sergeant A that Officer A directed profanities at him and pushed him.

Officer A stated, on the other hand, that Battalion Chief A “Got in his face,” and proceeded to intentionally chest bump him. He admitted that he brushed the BC back by pushing him away with his hands. Additionally, Sergeant A’s Initiation Report identified Firefighter/Paramedic (FF/PM) A and civilian 1 as witnesses. (Att. 3)

INTERVIEWS

In an **interview with IPRA** on November 30, 2016, **Complainant Battalion Chief A**, of the Chicago Fire Department (CFD), reported that on November 27, 2016, he was involved in a physical and verbal dispute with Officer A on the scene of pin-in traffic accident² involving multiple vehicles near the location of XXXX N. Lower Lake Shore Drive, Chicago, IL. The dispute arose from Officer A’s request for CFD to remove their vehicles so that they would no longer obstruct traffic. He described the scene as chaotic with department tools, water lines, fluids from vehicles, inoperable vehicles, CFD vehicles, and ambulances on scene.

Upon arrival, Battalion Chief A observed Officer A and Firefighter/Paramedic A engaged in conversation. A called him over and told him that Officer A wanted the trucks moved out of the intersection. After identifying himself as the incident Commander on scene, Battalion Chief A informed Officer A that the vehicles could not be moved at that time. As a result, Officer A became verbally abusive towards him and during the conversation he used words to the effect of “Get the fuck out of my face!” and “I’ll lock your ass up!” He relayed that Officer A became physically aggressive and pushed him in his chest with two open hands. At that point, he walked away and called Chicago Fire Department Deputy Chief A and waited for his arrival. No further incident occurred between the BC and Officer A. In addition, he confirmed that several supervisory members of the CPD arrived on the scene after the incident occurred. To his knowledge, the incident was documented in a CFD incident case report and reported to the Independent Police Review Authority (IPRA) via the Chicago Police Department. (Att. 13,14)

In an **interview with IPRA** on December 20, 2016, **independent witness Civilian 1**, a bus driver with Regal Coach Lines, reported that on November 27, 2016, near the intersection of Illinois and Lower

² A pin-in traffic accident is one where an occupant of one of the vehicles requires assistance in being extracted from the wreckage.

Lake Shore Drive, he witnessed the encounter between Battalion Chief A and Officer A. After dropping off passengers at a nearby event held at the McCormick Convention Center, he approached the scene of a traffic accident. He described the scene as chaotic with victims and their vehicles, debris, water lines, CFD vehicles, several CFD members, and other City of Chicago employees present. Because the flow of traffic had stopped and other drivers were becoming impatient, Civilian 1 decided to offer assistance to the fire department with traffic control by positioning his bus in the middle of the street.

After positioning his vehicle, Civilian 1 exited the coach and proceeded to the back of the bus. He then approached a male black uniformed CPD officer, wearing a coat and hat, with a gray beard and a tall/slender build, later identified as Officer A. Officer A stopped him and instructed him to return to his bus. As they both headed back to the front of the bus, he observed Officer A; who was ahead of him engaging in a conversation with a male white uniformed Fireman, short with a thick build, later identified as Battalion Chief A. Back on the bus, Civilian 1 watched their interaction through his window. Although he could not hear the conversation between the two, he observed the BC walk toward Officer A and chest bump him. In response, Officer A pushed the BC with both hands, making contact with his upper body. Now, Civilian 1 opened the side window of the bus to hear what was being said. During this time, he stated the BC rushed toward Officer A while hitting his chest and yelling, "This is my city!" several times. The other CFD member who was present the entire time, later identified as Firefighter/Paramedic A, stepped in between the two and physically removed the Battalion Chief from Officer A. Civilian 1 stated that he observed no further incident and both parties began speaking into their radios.

Additionally, Civilian 1 denied hearing any profanities from the time he opened his window through the end of incident. However, he added that neither party should have behaved in such a manner due to their professions. He denied having any previous relationship or familiarity with Officer A. (Att. 21, 22)

In an **interview with IPRA** on January 5, 2017, **Chicago Fire Department (CFD) Firefighter/Paramedic, A** acknowledged that he witnessed the encounter between Battalion Chief A and Officer A while on the scene of a pin-in traffic accident near the intersection of Illinois and Lower Lake Shore Drive, Chicago, IL. On the date of incident, he was assigned to CFD Firehouse- Engine XX. Upon arrival to the scene, his responsibility was to prepare victim refusal forms for involved individuals who refused medical attention. While standing near CFD Engine XX, he initially observed a CPD officer, later identified as Officer A. He could overhear a portion of a conversation between Officer A and the Engineer of Fire Engine XX regarding moving the "Rig" out of the way out of traffic. Although the Engineer denied the request, Firefighter/Paramedic A described a cordial conversation between the two and the Officer walked off.

After walking away from the Engineer, Officer A approached Firefighter/Paramedic A and presented him with the same request. He essentially reiterated the Engineer's response to Officer A and provided additional factors as to why the vehicles could not be moved. But this time Officer A appeared agitated and had an obvious change in his tone of voice. In response, Officer A said something to the effect of; "I'll worry about the people, you worry about just moving the Rigs." After Firefighter/Paramedic A denied his request once again, Officer A referenced that he would soon be making arrests. It was obvious

to him that the Officer was angry. At this time, the BC approached and stated words to the effect of, “Who’s going to be arrested?” After a few moments, the two were engaged in a loud and aggressive verbal exchange regarding who was in charge of the scene. According to Firefighter/Paramedic A, both parties were equally loud, confrontational, and aggressive as they stood close to one another and the only thing that made Officer A stand out from Battalion Chief A was the physical contact initiated by the Officer.

Firefighter/Paramedic A relayed that the two were face-to-face and were so close that their coats may have touched. Shortly thereafter, the shouting match transitioned to a physical altercation. Officer A stated words to the effect of “Get the fuck out of my face” as he pushed the BC with both hands in his upper body area (chest/shoulder). He also pointed out that, because the two were so close, Officer A was unable to extend his arms but did make enough contact to cause the BC to reposition himself.

The dispute ended without further incident and both parties spoke into their radios to call Supervisory assistance. Last, Firefighter/Paramedic A alleged that when the incident was over and he was completing the required CFD reports, Officer A refused to identify himself when asked and proceeded to cover his badge with his hand. (Att. 27, 39)

In an **interview with the Civilian Office of Police Accountability (COPA)** on October 24, 2017, **Officer A, Star #XXXX** acknowledged that he responded to the scene of a traffic accident near the intersection of Illinois and Lower Lake Shore Drive. Upon arrival, Officer A stated that he observed two fire engines, a tow truck, the three cars involved in the traffic accident, the victims, and ambulances. Officer A has been assigned to the Unit XXXX, Traffic Division since 1999 and, based on his experience in responding to 500 or more traffic accidents, he believed the accident to be minor with minimal damages to the vehicles. He further stated that a typical response in the case of an accident requiring a “wash down” for visible fluids and liquids, he would contact the City of Chicago Streets and Sanitation department to bring sand to the scene. Here, however, Officer A did not need to make a request for any such materials because he did not observe any [fluids requiring removal] on the scene while present.

After conducting his observation of the scene, Officer A asked a CFD member (No. X, Engineer of CFD Truck Engine XX) if he would move one of the trucks that was blocking the flow of traffic. The member seemed not to have a problem with moving the vehicle but another CFD member (Firefighter/Paramedic A) appeared and informed him that the truck would not be moved. Shortly thereafter, he noticed a Battalion Chief (BC) arrive on scene driving a CFD vehicle with “Battalion Chief” insignia on the vehicle. Officer A stated that, as he approached the BC, his attention was re-directed toward Firefighter/Paramedic A, who was walking past speaking loudly. As Officer A began to walk towards Firefighter/Paramedic A, the BC walked into Officer A’s path, stepped in front of him, and intentionally chest-bumped Officer A. Officer A stated that this action startled him and at that time believed that a battery was being committed against him. As the BC continuously bumped him about his body, Officer A stated that he did not know what his intentions were so he pushed him with both hands to create distance between them. However, the BC was so close to him that he could not fully extend his arms.

Officer A stated that was not trying to hurt Battalion Chief A but believed that the BC had committed a battery against him and therefore, he wanted to make an arrest. After he pushed the BC, both parties separated and Officer A radioed for officer assistance, stating that an arrest was to be made.

Supervisors from CPD and CFD arrived on scene, including Officer A's superior, Sergeant A. Officer A told Sergeant A that he wanted to arrest and file a complaint against the BC. However, Officer A insisted that Sergeant A discouraged him from filing a complaint with CFD regarding the BC's behavior and informed Officer A that CFD would not pursue anything further.³ Thus, the BC was neither arrested nor the subject of a complaint. During his statement, Officer A confirmed that he had not spoken to or been in contact with anyone from CFD regarding this incident.

Officer A denied using or directing any profanities at Battalion Chief A and that anyone requested for him to identify himself. He further stated that, on the date of incident, he was in full CPD uniform with name and/or star number visible to the public. (Att. 45, 46)

In an **interview with the Civilian Office of Police Accountability (COPA)** on November 28, 2017, **Sergeant A, Star #XXXX** acknowledged that he responded to the traffic accident on November 27, 2016, after a request for a supervisor. Prior to arrival, he heard radio traffic that mentioned an officer may be having problems at the scene. Upon arrival, at least two other CPD Sergeants were on scene but had not spoken with anyone. Sergeant A soon took the lead since he was from the traffic unit and collected both Officer A's and Battalion Chief A's accounts of the incident. Both confirmed that the dispute arose from a conversation about moving CFD vehicles to clear the traffic path. However, their accounts were conflicting. Battalion Chief A informed him that Officer A was verbally abusive in that he told him to "Get the fuck out of here or I'm going to lock you up" and then proceeded to push him. On the other hand, Officer A stated that Battalion Chief A pushed him with his chest and that he wanted the BC arrested. Based on his preliminary investigation conducted while on-scene, Sergeant A did not believe that the BC's bump to Officer A was intentional. Further, given the conflicting accounts from the parties and provided by the BC and Firefighter/Paramedic A, Sergeant A did not have sufficient evidence to justify an arrest.

Sergeant A denied having any conversations with Officer A regarding filing a complaint with the CFD against Battalion Chief A. He also denied discouraging Officer A from initiating a complaint. Sergeant A also stated that it was not his duty to do initiate a complaint with CFD on behalf of Officer A. However, he did discuss the incident with the on-scene CFD Deputy Chief, and he considered that conversation as a notification to CFD of Battalion Chief A involvement in the incident with Officer A. Moreover, based on his discussion with the BC and the Deputy Chief, he understood that they only wanted the incident documented and said they did not plan to pursue the incident any further. (Att. 50, 51)

DEPARTMENTAL RECORDS

³ It was the R/I's understanding from Officer A's interview that he understood this to mean that CFD members would not file a complaint against him based on the actions described herein. Nevertheless, Sergeant A did file the Initiation Report that triggered this investigation.

The **Illinois Traffic Crash Report**, documented under RD#XXXXXXX and Event #1633203866 is associated with the traffic accident which occurred on November 27, 2016, near the intersection of Lower Lake Shore Drive and Illinois Street. The report describes three vehicles involved in the accident. Additionally noted, was one victim refusal for medical treatment with two other involved victims transported to XXXX Hospital by Chicago Fire Department paramedics. (Att. 4)

Office of Emergency Management and Communications (OEMC) Audio CD and event queries recorded under Chicago Fire Department (CFD) Event #'s 163320527 and 163320529 contain several 911 telephone calls initiated by private citizens notifying CFD of a traffic accident near the vicinity of Lake Shore Drive and Illinois Street on November 27, 2017. They also provide audio transmissions between CFD members and dispatch. The related documents correlate with the provided audio CD. (Att. 5-6, 33, 38)

Additional records retrieved from the OEMC and documented under Chicago Police Department (CPD) Event queries #1633203871, #1633203872, #16332004063, and #1633203866, essentially revealed the same information as documented under the CFD queries. However, the CPD records included Officer A's transmissions requesting assistance, a supervisor, and mentioning locking up a fire Chief. (Att. 7-10, 30)

Chicago Fire Department (CFD), Incident Case Report documented the confrontation between Battalion Chief A and Officer A. In his written statement, Battalion Chief A reported that he noticed Officer A speaking with Firefighter/Paramedic A and insisting that CFD move their fire trucks ("rigs") so he could allow traffic to get by. Firefighter/Paramedic A explained to him that he could not move the "rigs" for safety reasons and denied his request. Battalion Chief A approached the two and reiterated what Firefighter/Paramedic A stated. Officer A responded by telling him to "Get the fuck out of his face," pushed him with both hands in his chest, and told him he would be locked up. Battalion Chief A stated that he and the Officer had words about who was in charge of the scene. Deputy District Chief A, #XXXX was requested to respond to the scene, after which there was no further incident.

The witness statements of Firefighter/Paramedic A, #XXXX and Paramedic A, #XXXX supplemented the CFD Incident Case Report. In his statement to Firefighter/Paramedic A, stated he observed Office A speaking with the engineer of Engine XX, requesting that he move the fire trucks out of the way of traffic. After his request was refused, Officer A then approached Firefighter/Paramedic A who also denied his request. At this time, Officer A became angry and stated he was going to arrest people. Battalion Chief A approached and stepped between Firefighter/Paramedic A and Officer A and, at that time, Officer A and Battalion Chief A began to argue. During this time, however, Firefighter/Paramedic A observed Officer A push the Battalion Chief with both hands at his chest. No further incident occurred between the two. However, Firefighter/Paramedic A stated that Officer A refused to identify himself upon request and instead "covered up his information and walked away."

Paramedic A was unable to provide any details related to the incident due to his distance from the incident. (Att.28)

In-Car Camera video (ICC) of the vehicle assigned to Beats XXX, XXX, and XXX on November 27, 2017, during the time of the traffic accident does not capture footage related to the incident at hand. However, it does show several City of Chicago employees including members of CPD and CFD on the scene of a traffic accident. Additionally, footage retrieved from Beat XXX provides a view of the unit facing CFD Engine XX and a display of a coach bus with Regal Coach Lines signage on scene. (Att. 24, 35-37)

Submitted by:

Investigator, A, XXXX#

Approved by:

Supervising Investigator, A #XXXXXX

ANALYSIS:

The burden of proof COPA must reach for a finding on each allegation is the preponderance of the evidence standard.

Allegation 1: Officer A pushed Battalion Chief A on the scene of a traffic accident.

COPA recommends a finding of **Exonerated** regarding **Allegation #1 against Officer A, Star #XXXX** in that he pushed Chicago Fire Department Battalion Chief A (Battalion Chief A) while on the scene of a traffic accident. In accordance with Department Policy documented under General Order 03-02-Use of Force Guidelines states, "*a member will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.*" In this case, COPA finds that Officer A's conduct was reasonable based on the totality of the circumstances.

There is no question that Officer A pushed Battalion Chief -- Officer A admitted to the allegation. However, he provided a reasonable and justifiable explanation for responding in a physical manner during this encounter. After interviewing all parties relative to this investigation, the R/I found that the evidence provided an overall picture of the various dynamics leading to the physical encounter that justified Officer A's action.

All parties agree that Battalion Chief A and Officer A engaged in a verbal altercation while on the scene of a traffic accident and that, during this encounter, Officer A pushed the BC. During Battalion Chief A's interview, he stated that he noticed Officer A speaking with CFD member Firefighter/Paramedic A and later joined the conversation after Firefighter/Paramedic A called him over. Firefighter/Paramedic A informed him that Officer A wanted him to move the Fire Engine out of the way of traffic. Battalion Chief A attempted to explain to Officer A why he could not fulfill the request. However, Officer A disregarded him and continued his discussion with Firefighter/Paramedic A. As Battalion Chief A admitted, "*I walked in front of him and said hey, we're not moving the fire engine.*" When asked why he walked between Officer A and Firefighter/Paramedic A, his response was "*Because I was in charge and there was no reason for him [Officer A] to talk to the medic anymore.*" He confirmed that he approached Officer A and walked into his path after the Officer had walked away from him. The general tone received by the R/I was that Battalion Chief A felt some form of disrespect by the Officer.

During Officer A's interview, he stated that he was startled when the BC approached him. He conveyed that the BC walked directly up to him, stood in his face, and intentionally chest bumped him. According to Officer A, he believed that he was in threat of receiving a battery, which became a reality when the BC continuously bumped him with his body. Officer A explained that the BC's actions led him to react in a physical manner by using his hands to push the BC away from him. Officer A asserted that his intent in pushing the BC was to create distance between the two. Although he admitted to the physical reaction, he added that the two were so close that he was unable to extend his arms and that the BC barely repositioned himself. Subsequently, he stated that he was not trying to hurt the BC and his intent was to create space and to protect himself from what he believed to be an imminent battery by the BC. This interaction was, according to Officer A, the reason he later requested the arrest of the BC.

Although some details differ, the statements taken from the interview of witnesses Firefighter/Paramedic A and Civilian 1 provided similar, unbiased accounts. Again, there is no question that Battalion Chief A approached Officer A right before the verbal dispute occurred and at some point, they stood face-to-face. Just as Officer A relayed, Firefighter/Paramedic A said that right before the “push” they were so close to one another that it was possible that their chests may have touched. Firefighter/Paramedic A and Civilian 1 both stated that a large part of the verbal dispute regarded whose scene it was. Firefighter/Paramedic A relayed that both voices were elevated as they stood face-to-face, yelling at each other: “This is my scene!” In Firefighter/Paramedic A’s words, they were both “trying to make a point.” Again, the BC admitted that this shouting was a large part of their dispute.

Likewise, both witnesses asserted that the BC and Officer A were so close to each other that when Officer A did push the BC he was unable to fully extend his arms. Firefighter/Paramedic A added that Officer A did not even have to reach out to touch the BC because they were so close. At some point during the encounter Firefighter/Paramedic A heard Officer A mention the word arrest.

The only evidence in this investigation was the statements of the parties and witnesses, which described how two City of Chicago employees from partnering agencies had a heated conversation that led to an aggressive, confrontational, and physical encounter. Given the above factors, it appears that both parties contributed to the altercation. Due to the nature of the conversation, the heightened tension, and physical contact alleged by both parties, a preponderance of the evidence supports Officer A’s explanation and his actions are considered reasonable. Given the same set of circumstances, it is possible that a civilian may have been arrested for battery if he had comported himself like Chief A. In this case, that did not happen and fortunately the incident did not escalate further. Accordingly, COPA recommends a finding of **Exonerated**.

Allegation 2: Officer A directed profanities toward Battalion Chief A.

Based on the evidence gathered here, COPA is unable to determine if Officer A, Star #XXXX directed profanities towards CFD Battalion Chief A. Therefore, COPA recommends a finding of **Not Sustained** regarding **Allegation #2 against Officer A**. Although all interviewed parties acknowledged that a verbal dispute did occur, the uncertainty of the exact language used between Officer A and Battalion Chief A does not allow for a conclusive determination of whether profanity was used. Given that, Officer A also denied the allegation. Because of the lack of audio/video evidence or other unrelated third-party witnesses to the incident, it cannot be determined by a preponderance of the evidence that the use of profanities occurred as alleged. Thus, COPA is unable to prove or disprove the allegation and, for the reasons stated above, COPA recommends a finding of **Not Sustained**.

Allegation 3: Officer A refused to identify himself to Firefighter/Paramedic A upon request.

COPA was unable to determine if Officer A, Star #XXXX refused to identify himself upon the request of CFD Firefighter/ Paramedic A. Accordingly, COPA recommends a finding of **Not Sustained** regarding **Allegation #3 against Officer A.**

In his interview, Officer A denied the allegation and added that there was no need for such a request because he was in full uniform and his last name and/or badge number was clearly visible on his CPD coat, vest, and hat. Officer A further added that he was never asked to identify himself. All interviewed parties corroborate Office A's recollection, confirming that he was dressed as he described, *i.e.* in full CPD uniform. Moreover, Officer A and Sergeant A provided identical descriptions of CPD uniforms in that, when normally worn, the officer's name and badge number are clearly visible.

Although Battalion Chief A mentioned in his interview that Officer A refused to identify himself to Firefighter/Paramedic A, he acknowledged that he did not witness this refusal and was only relaying what Firefighter/Paramedic A told him. Thus, Firefighter/Paramedic A and Officer A gave conflicting accounts as to this allegation and there is no witness testimony that corroborates or discredits either account. Again, because of the lack of independent evidence (audio/video of the encounter) or other unrelated third-party witnesses to the incident, it cannot be determined by a preponderance of the evidence that the misconduct occurred as alleged. Due to the lack of evidence to either prove or disprove the allegation, COPA recommends a finding of **Not Sustained**.

CONCLUSION

COPA recommends the finding of **Exonerated** for Allegation 1 against Officer A #XXXX, in that on November 27, 2016, he pushed the upper body of Chicago Fire Department Battalion Chief A on the scene of a traffic accident.

COPA recommends the findings of **Not Sustained** for Allegations 2 and 3 against Officer A #XXXX, in that on November 27, 2016, he directed profanities towards Chicago Fire Department Battalion Chief A; and refused to identify himself to Chicago Fire Department Firefighter/Paramedic A.

Deputy Chief Administrator A #XXXX
Deputy Chief Administrator, COPA

FINDINGS

Accused: Officer A, #XXXX, Unit XXXX

Allegation #1: **Exonerated** - Officer A pushed the upper body of Chicago Fire Department Battalion Chief A while on the scene of a traffic accident

Allegations #2 **Not Sustained** - Officer A directed profanities towards Chicago Fire Department Battalion Chief A.

Allegation #3 **Not Sustained** - Officer A refused to identify himself upon the request of Chicago Fire Department Firefighter/ Paramedic A.